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| 09/982,260 | 10/17/2001 | Johan Paul Marie Gerard Linnartz | NL000558 | 7206 |

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EXAMINER

BROWN, CHRISTOPHER J

ART UNIT PAPER NUMBER

2134

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/982,260

Applicant(s)

LINNARTZ, JOHAN PAUL MARIE
GERARD

Examiner

Christopher J. Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/19/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. As per the argument regarding the use of headings in the specification, the Examiner withdraws his objection.

As per the 112 rejection of claim 5, the examiner fails to see how the applicant has corrected the oversight. While capitalizing "BLUETOOTH" has overcome the examiners specification objection, the claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. Claim 5 must refer to some specific iteration of BLUETOOTH. The 112 rejection is maintained. Appropriate correction is required.

Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2. Claim 5 contains the trademark/trade name Bluetooth. Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second

paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App. 1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. In the present case, the trademark/trade name is used to identify/describe a communications protocol and, accordingly, the identification/description is indefinite.

Claim Rejections - 35 USC § 112

3. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. The sentence “as described in the Bluetooth link encryption specification” could comprise any of a plurality of specifications and any of a plurality of parts of those specifications.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 4, 9, 11-15, 17, and 19, are rejected under 35 U.S.C. 103(a) as being unpatentable over Herlin US 5,915,021 in view of Jaisimha US 6,487,663

As per claims 1, 3, 4, 9, 14, and 15 Herlin teaches activating a communication link between devices column 5 lines 35-40). Herlin teaches transmitting data between devices for performing an authentication session for authenticating the devices, wherein a first key is generated, (Col 5 lines 35-48). Herlin teaches that the first authentication session generates a first key (k1), (Col 5 lines 40). Although not explicitly stated, if the first authentication fails, the procedure will not continue. Herlin teaches that a second authentication session generates a second key (k2), (Col 5 line 45).

As per claim 11, Herlin teaches means for receiving information and decrypting the information using a link key, (Col 5 lines 45-50).

As per claim 12, Herlin teaches the device is portable, (Col 6 line 61).

As per claim 13, Herlin teaches the device comprises means for wireless communication, (Col 7 lines 28-45).

Herlin does not teach that the key is used in transferring audio or visual content.

Jaisimha teaches a media player and media server that exchange audio or visual content, (Col 4 lines 36-42).

It would have been obvious to employ the authentication and encryption of Herlin, with the Media Player of Jaisimha because the authentication would enhance the security of the media system.

As per claim 17, Jaisimha teaches determining a compliance level before transferring data, (Col 2 lines 43-46).

As per claim 19, the authentication of Herlin proves that the device is trustworthy, (Col 5 lines 45-47).

Jaisimha provides for the downloading of audiovisual content (Col 4 lines 36-42).

Claims 2, 5, 6, 7, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herlin US 5,915,021 in view of Jaisimha US 6,487,663 in view of Bluetooth Security Specification Version 1.0B.

As per claims 2, 5, 6, 7, and 16 The previous Herlin-Jaisimha combination teaches generation of a first key and a second key. Herlin fails to teach key merging.

Bluetooth teaches using a first key and a second key and merging them in an XOR fashion to create a new link key, page 156 lines 1-3. It would have been obvious to one of ordinary skill in the art to combine the first and second keys of Herlin to create a more secure system.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herlin US 5,915,021 in view of Jaisimha US 6,487,663 in view of Holloway US 5,604,802.

As per claim 8, the previous Herlin-Jaisimha combination does not teach key merging. Holloway teaches encrypting one key with another and sending it to a recipient, (Col 9 lines 45-53). It would have been obvious to one of ordinary skill in the art to use k1 of

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Herlin as the key encrypting key of k2 because it is a one time key and would increase security.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herlin US 5,915,021 in view of Jaisimha US 6,487,663 in view of Crane US 6,839,437.

As per claim 10, the previous Herlin-Jaisimha combination does not teach API's.

Crane teaches use of APIs with cryptographic operations and a common data security architecture.

It would have been obvious to one of ordinary skill in the art to modify the system of Herlin with the API of Crane because the API allows for greater flexibility for the design of the system.

Claims 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herlin US 5,915,021 in view of Jaisimha US 6,487,663 in view of Moskowitz US 6,598,162

As per claims 18, and 20, the previous Herlin-Jaisimha combination teaches authentication but does not teach limiting quality of the media.

Moskowitz teaches limiting the quality of media based on authorization rights, (Col 4 lines 35-50).

It would have been obvious to one of ordinary skill in the art to use the reduced quality media with the security of Herlin-Jaisimha because it allows for unauthorized users to sample a product before deciding to purchase it.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Brown whose telephone number is (571)272-3833. The examiner can normally be reached on 8:30-6:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (571)272-3838. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher J. Brown

11/1/05



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